

726. Action to enjoin and restrain distribution of Slend-R-Form, a misbranded candy. U. S. v. Riley Products, Inc., and George C. Riley. Judgment ordering permanent injunction. (Inj. No. 15.)

On February 2, 1942, the United States attorney for the Northern District of Illinois filed a complaint against Riley Products, Inc., a corporation, and George C. Riley, an officer of said corporation, alleging that the defendants for several months past, and more particularly on or about October 28, 1940, had been introducing and delivering for introduction in interstate commerce, a product consisting of a drug and a food, labeled in part "Slend-R-Form the New Candy," alleging that in form and appearance it was like ordinary caramel candy, that it was packed, distributed, and sold by the defendants in cardboard cartons which cartons and smaller cartons contained therein and the accompanying circulars had printed thereon statements referring to its efficacy and the quantity to be consumed.

The complaint alleged further that the labeling of the article was false and misleading since it created the impression in the minds of the purchaser that it was a reducing agent and that when consumed in the manner and in the quantity recommended in the labeling it would be of substantial value in reducing body weight, whereas it contained no ingredients or combination of ingredients capable of producing the effects claimed for it as a reducing agent when consumed in accordance with the directions contained in the labeling.

The complaint alleged further that the defendants, unless restrained by the court, would continue to introduce and deliver for introduction in interstate commerce the said article or a similar article of drug or food misbranded in the manner aforesaid, and prayed that they be permanently enjoined and restrained from doing so and further prayed that a temporary restraining order and preliminary injunction issue. On the same date, the United States attorney filed a motion for an order to show cause why the defendants should not be enjoined and restrained during pendency of the action.

On February 6, 1942, the court entered a preliminary injunction against the defendants pursuant to the prayer contained in the complaint.

On April 10, 1942, the cause having been called for a hearing, judgment was entered permanently enjoining and restraining Riley Products, Inc., and George C. Riley, their agents, employees, and representatives and all others acting by or under their direction or authority or in active concert or participation with them from introducing or delivering for introduction in interstate commerce, the product labeled in part "Slend-R-Form, the New Candy" or a similar article of drug or food similarly labeled. It was provided further that the United States of America recover the costs of the action.

727. Misbranding of Bronchi-Lyptus. U. S. v. Mrs. Millie R. Binz, Mrs. Maude F. Boynton, and Ralph H. Boynton (Bronchi-Lyptus Laboratory). Pleas of nolo contendere. Imposition of sentences suspended and defendants placed on probation for 1 year. (F. D. C. No. 5489. Sample No. 32653-E.)

On October 27, 1941, the United States attorney for the Southern District of California filed an information against Mrs. Millie R. Binz, Mrs. Maude F. Boynton, and Ralph H. Boynton, copartners trading as Bronchi-Lyptus Laboratory at Los Angeles, Calif., alleging shipment on or about September 3, 1940, from the State of California into the State of Arizona of a number of packages, each containing a number of bottles enclosed in cartons, and a number of sample vials, of Bronchi-Lyptus which was misbranded.

Analyses of samples of the product showed that it consisted essentially of oil of eucalyptus, a gum, glycerin, sugar, and water.

The article was alleged to be misbranded in that the name "Bronchi-Lyptus," and certain statements in the labeling which represented and suggested that the article was efficacious in the treatment of affections of the bronchi, would relieve inflamed tissues and soothe the mucous membrane, would be efficacious in the treatment of all throat irritations, would relieve night attacks of spasmodic croup or coughing almost immediately; that it was a treatment accepted by all nose and throat specialists and was highly efficacious in assisting the delicate organs of the throat to throw off conditions that might lead to serious affections, would assist nature in its efforts to bring about recovery from coughs and colds, would provide relief in chronic conditions of the throat or lungs, and would aid one in recovering from such conditions; and that it would correct fermentation in the stomach, were false and misleading since it would not be efficacious for such purposes. The article contained in the sample vial was alleged to be misbranded further in that its label did not bear an accurate statement of the quantity of the contents.